

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

VIRIDITY ENERGY SOLUTIONS, INC., §  
§  
*Plaintiff,* §  
§  
VS. § CIVIL ACTION NO. 4:21-CV-419-SDJ  
§  
LONE STAR DEMAND RESPONSE, LLC, §  
§  
*Defendant.* §  
§

**PLAINTIFF'S REQUEST FOR THE CLERK TO ENTER  
DEFAULT AGAINST DEFENDANT LONE STAR DEMAND RESPONSE**

Pursuant to Federal Rule of Civil Procedure 55(a), Plaintiff Viridity Energy Solutions, Inc. (“Viridity” or “Plaintiff”) requests that the Clerk enter default against Defendant Lone Star Demand Response, LLC (“Lone Star” or “Defendant”).

**REQUEST FOR ENTRY OF DEFAULT**

1. On June 2, 2021, Viridity filed its Original Complaint (Dkt. 1) (“Complaint”) in the above-styled matter.

2. On July 6, 2021, Viridity, through its Process Server, Vivian Smith of Special Delivery, personally served Summons and Complaint on Lone Star by delivering the documents to its registered agent, United States Corporate Agents, Inc., 9900 Spectrum Drive, Austin, Texas 78717.<sup>1</sup>

3. Viridity filed Plaintiff's Notice of Service of Plaintiff's Original Complaint (Dkt. 4) in this Court on September 3, 2021.

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<sup>1</sup> See the attached Affidavit of Benjamin L. Mesches (“Mesches Aff.”) at ¶4.

4. Viridity and Lone Star agreed to extend Lone Star's answer deadline until September 1, 2021, and Lone Star never requested an additional extension of its answer deadline.<sup>2</sup>

5. Lone Star's time to answer or otherwise defend against this action has expired under both Rule 12 of the Federal Rules of Civil Procedure and the Parties' agreement to extend Lone Star's answer deadline to September 1, 2021.<sup>3</sup>

6. To date, Lone Star has failed to file an answer, appear, or otherwise defend this action.<sup>4</sup>

7. As a domestic limited liability company, Lone Star is neither an infant, incompetent person, nor military service member.<sup>5</sup>

8. Therefore, Viridity is entitled to an entry of default by the Clerk of the United States District Court of the Eastern District of Texas pursuant to Federal Rule of Civil Procedure 55(a).

9. There is no reason to delay the entry of default in favor of Viridity against Lone Star.

#### **PRAYER**

WHEREFORE, Viridity requests the Clerk of the Court to make entry of default in the record as it relates to Defendant Lone Star, and for such other relief, in law or at equity, to which Viridity is entitled.

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<sup>2</sup> Mesches Aff. at ¶ 7.

<sup>3</sup> Mesches Aff. at ¶¶ 6-8.

<sup>4</sup> Mesches Aff. at ¶¶ 8-9.

<sup>5</sup> Mesches Aff. at ¶ 10.

Respectfully submitted,

/s/ Benjamin L. Mesches

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**COUNSEL FOR PLAINTIFF VIRIDITY  
ENERGY SOLUTIONS, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 9th, 2021, a true and correct copy of the foregoing request and supporting affidavit were served upon Defendant's attorney, David Drez, Wick Phillips, LLP, 100 Throckmorton Street, Suite 1500, Fort Worth, Texas 76102, via email attachment to [david.drez@wickphillips.com](mailto:david.drez@wickphillips.com).

*/s/ Benjamin L. Mesches*  
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Benjamin L. Mesches